



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA UPS

JUN 16 2014

Scott Whitwer
M & G Polymers USA, LLC
27610 Huntington Road
Apple Grove, WV 25502

**Re: Notice of Violation
Compliance Evaluation Inspection
April 9, 2013
EPA ID No. WVD005005475**

Docket Number: R3-14-NOV-RCRA-17

Dear Mr. Whitwer:

On April 9, 2013 the U.S. Environmental Protection Agency, Region III ("EPA") conducted a Compliance Evaluation Inspection ("CEI") under the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Sections 6901 et seq. at your facility. A copy of the inspection report is enclosed. Based on that inspection and/or review of other pertinent information, EPA has determined that M & G Polymers USA, LLC (the Facility) is violating regulations promulgated under West Virginia Hazardous Waste Management Act, West Virginia Code ("WV Code") and RCRA. As a result of this finding, the Agency is issuing this **Notice of Violation (NOV)**. The specific violation(s) are:

1. On the 3rd floor of the Continuous Polymer Plants 3 & 4 the inspector observed 3 unmarked 55 gallon containers that were not identified by the Facility at the time of the inspection; see page 11 and photos 46 and 47 of inspection report. Failure to make waste determination as required by WV Code § 33-20-5 [40 CFR 262.11]
2. During the inspection the inspector was informed that prior to regular disposal spent aerosol cans were punctured with a screw driver allowing the gases to be released within the immediate vicinity; see inspection report page 10 and photo 28. Handling of the aerosol container in this manner constitutes a failure to maintain and operate the facility to minimize a release of hazardous waste or hazardous constituents to air, soil, or surface water as required by WV Code § 33-20-8 [40 CFR 265.31].
3. In the Intrinsic Viscosity Laboratory two 1 gallon containers were observed collecting hazardous waste. Each was connected to a separate intrinsic viscosity testing machine and were considered satellite accumulation areas (SAA). Another 1 gallon container was observed collecting hazardous waste from the Carl Fischer titration process also considered a SAA. Each of these 3 containers were stated to be emptied into another SAA which was a 3 gallon container located under a nearby fume hood; see page 9 and photos 21 through 24. The 3 gallon container is collecting hazardous waste from 3 different processes and is not at the point where waste is initially generated as required by WV Code § 33-20-5 [40 CFR

262.34(c)(1)]. In the Carboxylic Group Laboratory the facility stated the metal pot of spent benzyl alcohol is transported to the grinding room, which is a separate room, where once cooled it is emptied into a hazardous waste container considered as a SAA; see page 10 and photo 27 of the inspection report. This SAA is not at the point of generation and not under control of the operator as required in WV Code § 33-20-5 [40 CFR 262.34(c)(1)].

4. The Spill Release Reporting copy provided to the inspector did not list the name of the emergency coordinator and did not provide the locations of fire extinguishers and spill control material. The generator must post this information next to the telephone as required by WV Code § 33-20-5 [40 CFR 262.34(d)(5)(ii)].
5. In the Fork Truck Stop the inspector observed a battery with an accumulation date of 11/18/2007 and no other markings or labels; see page 10 and photo 30 of the inspection report. Universal waste batteries must be labeled or marked with the following phrases: "Universal Waste-Battery(ies)" or "Waste Battery(ies)" or "Used Battery(ies)" as required by WV Code § 33-20-13 [40 CFR 273.14(a)]. Small quantity generators of universal wastes may accumulate universal waste for no longer than a year from the date it was generated as required by WV code § 33-20-13 [40 CFR 273.15(a)].

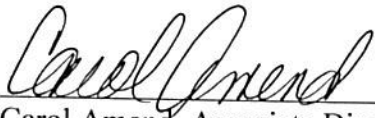
Section 3008(a) of RCRA authorizes EPA to take an enforcement action whenever it is determined that any person has violated, or is in violation, of any requirement of RCRA as amended. Such an action could include a penalty of up to \$37,500 per day of violation. In addition, failure to achieve and maintain compliance with the regulations cited in this Notice of Violation may be treated as a repeated offense and may constitute a "knowing" violation of Federal law.

Within twenty (30) calendar days of the receipt of this NOV, please submit a response documenting the measures the facility has taken or is taking to achieve compliance with the violations noted above or provide an explanation of facts and circumstances that cause you to believe that EPA's determination of the alleged violations are in error. If the compliance measures identified are planned or are on-going, please provide a schedule for when the compliance measures will be completed.

With regard to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), please see the "Information for Small Businesses" memo, enclosed, which might be applicable to your company. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action. EPA has not made a determination as to whether or not you [or your company] are covered by the SBREFA.

This Notice of Violation is not intended to address all past violations, nor does it preclude EPA from including any ongoing, including the one cited in this letter, or past violations in any future enforcement action. Any response to this NOV shall be addressed to:

Stephen Forostiak (3LC70)
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103



Carol Amend, Associate Director
Land and Chemicals Division
Office of Land Enforcement

June 16, 2014
Date

Enclosure

cc: S. Forostiak (3LC70)
T. DiFiore (3LC71)
J. Sizemore (WVDEP)

